

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

DIANE M. JONES,	*	C.A. No.
	*	
Plaintiff,	*	
	*	TRIAL BY JURY DEMANDED
v.	*	
	*	
CHARMING SHOPPES, INC.,	*	
a Pennsylvania corporation;	*	
CHARMING SHOPPES OF	*	
DELAWARE, INC., a	*	
Pennsylvania corporation;	*	
and LANE BRYANT (DELAWARE)	*	
CORPORATION, a Delaware	*	
corporation,	*	
	*	
Defendants.	*	

COMPLAINT

1. Plaintiff Diane M. Jones is a resident of the State of Delaware, residing at 389 Frear Drive, Dover, Delaware 19901.

2. Defendant Charming Shoppes, Inc., is a Pennsylvania corporation whose principal place of business is located at 450 Winks Lane, Bensalem, Pennsylvania 19020.

3. Defendant Charming Shoppes of Delaware, Inc., is a Pennsylvania corporation whose principal place of business is located at 450 Winks Lane, Bensalem, Pennsylvania 19020.

4. Defendant Lane Bryant (Delaware) Corporation is a Delaware corporation whose registered agent for service of process is The Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware 19801.

5. At all times relevant to this Complaint, Defendants were employers within the State of Delaware.

6. Jurisdiction is conferred on this Court by 42 U.S.C. §2000e-5(f)(3), by 29 U.S.C. §621 *et seq.*, and by 28 U.S.C. §1343.

7. Venue for all causes of action stated herein lies in the District of Delaware, as the acts alleged as the bases for these claims took place within the boundaries of that District.

8. Plaintiff brings this action under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000e *et seq.*; under 42 U.S.C. §1981; and under the Age Discrimination in Employment Act, 29 U.S.C. §621 *et seq.*, to redress the wrongs done her by Defendants' discrimination against her on the basis of her race and age.

9. Plaintiff timely submitted a complaint of discrimination on the basis of race and age to the Delaware Department of Labor ("DDOL") and the Equal Employment Opportunity Commission ("EEOC").

10. Plaintiff has received a notice of right to sue for the above-referenced charge from the EEOC.

11. Plaintiff has timely filed this Complaint within ninety (90) days of her receipt of the notice of right to sue.

12. Plaintiff is an African-American female, and at all times relevant to this Complaint was over forty (40) years of age.

13. Plaintiff began her employment with Defendants on or about September 14, 1986.

14. At the time of her termination on August 8, 2006, Plaintiff was a store sales manager at the Concord Mall Store, and Plaintiff was 54 years of age.

15. At all times relevant to this Complaint, Plaintiff was qualified for her job position and satisfactorily performed all duties of her job position.

16. At all times relevant to this Complaint, Plaintiff was supervised by District Sales Manager Michele Hague, whose race is Caucasian, and who, at all times relevant to this Complaint, was under forty (40) years of age.

17. Defendants, through their agents, including Ms. Hague, subjected Plaintiff to a hostile work environment because of her race and age by, *inter alia*, making derogatory statements toward Plaintiff in front of her peers, making excessive store visits, and not providing Plaintiff with a compliance check list within the relevant time period.

18. Prior to the advent of Ms. Hague as District Sales Manager in early 2006, Plaintiff received numerous commendations and positive evaluations.

19. On or about August 8, 2006, Defendants terminated Plaintiff. The reason proffered for the termination, alleged performance issues, was pretextual.

20. Defendants replaced Plaintiff with a Caucasian female who was approximately 25 years old.

21. The actions of Defendants in harassing Plaintiff and terminating her were wrongful and discriminatory against Plaintiff on the basis of her race and age.

22. The wrongful acts committed by Defendants, as stated hereinabove, were wilful, wanton, and committed in bad faith.

23. As a direct result of the actions of Defendants, Plaintiff has suffered damages, including, but not limited to, severe emotional distress, pain and suffering, mental anguish, humiliation, and lost wages.

COUNT I -- TITLE VII

24. Plaintiff restates and incorporates by reference paragraphs 1 through 23 hereinabove.

25. By committing the aforementioned acts, Defendants have discriminated against Plaintiff on the basis of her race in violation of 42 U.S.C. §2000e, *et seq.*

26. As a direct result of the discriminatory conduct of Defendants, Plaintiff has suffered damages, including, but not limited to, physical and emotional injury, pain and suffering, mental anguish, humiliation, and lost wages.

WHEREFORE, Plaintiff demands judgment against Defendants, jointly and severally, for:

- (a) Back pay, including interest;
- (b) Compensatory damages, including damages for emotional and physical pain and suffering, inconvenience, mental anguish, loss of enjoyment of life, and all other non-pecuniary damages;
- (c) Punitive damages;
- (d) Pre-judgment and post-judgment interest;
- (e) Attorney's fees and costs;
- (f) Reinstatement, if feasible, or, in the alternative, front pay; and
- (g) Any other relief that this Court deems just.

COUNT II -- 42 U.S.C. §1981

27. Plaintiff hereby restates and incorporates by reference paragraphs 1 through 25 hereinabove.

28. By committing the aforementioned acts, and specifically by discriminating against Plaintiff on the basis of her race, Defendants have violated 42 U.S.C. §1981.

29. As a direct result of the discriminatory conduct of Defendants, Plaintiff has suffered damages, including, but not limited to, physical and emotional injury, pain and suffering, mental anguish, humiliation, and lost wages.

WHEREFORE, Plaintiff demands judgment against Defendants, jointly and severally, for:

- (a) Back pay, including interest;
- (b) Compensatory damages, including damages for emotional and physical pain and suffering, inconvenience, mental anguish, loss of enjoyment of life, and all other non-pecuniary damages;
- (c) Punitive damages;
- (d) Pre-judgment and post-judgment interest;
- (e) Attorney's fees;
- (f) Reinstatement, if feasible, or, in the alternative, front pay; and
- (g) Any other relief that this Court deems just.

COUNT III -- AGE DISCRIMINATION IN EMPLOYMENT ACT

30. Plaintiff hereby restates and incorporates by reference paragraphs 1 through 28 hereinabove.

31. The actions of Defendants as described in this Complaint represent discrimination against Plaintiff on the basis of her age in violation of 29 U.S.C. §621 *et seq.*

32. As a direct result of the discriminatory conduct of Defendants, Plaintiff has suffered damages, including, but not limited to, physical and emotional injury, pain and suffering, mental anguish, humiliation, and lost wages.

WHEREFORE, Plaintiff demands judgment against Defendants, jointly and severally, for:

(a) Any and all damages available pursuant to 29 U.S.C. §621 *et seq.*, including, but not limited to, lost wages, salary, employment benefits, back pay, front pay, interest, liquidated damages, and any and all other available pecuniary damages.

(b) Compensatory damages;

(c) Punitive damages;

(d) Pre-judgment and post-judgment interest;

(e) Attorney's fees and costs;

(f) Reinstatement, if feasible; and

(g) Any other relief that this Court deems just.

SCHMITTINGER & RODRIGUEZ, P.A.

BY: 

NOEL E. PRIMOS, ESQUIRE
Bar I.D. #3124
414 S. State Street
P.O. Box 497
Dover, DE 19901
(302) 674-0140
Attorneys for Plaintiff

DATED: 05-22-2008
NEP:pmw

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rule. The Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE)

I. (a) PLAINTIFFS

Diane M. Jones

DEFENDANTS

Charming Shoppes, Inc., a Pennsylvania corporation
Charming Shoppes Of Delaware, Inc., a Pennsylvania Corporation; and Lane Bryant (Delaware) Corporation
a Delaware corporation

(b) County of Residence of First Listed Plaintiff

Kent

(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Plaintiff

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

© Attorney's (Firm Name, Address, and Telephone Number)

Noel E. Primos, Esquire
Schmittinger & Rodriguez, P.A.
414 S. State Street, P.O. Box 497
Dover, DE 19901
(302) 674-0140

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place and "X" in One Box for Plaintiff and One Box for Defendant)

- (For Diversity Cases Only)
- | | | | | | |
|---|--------------------------------|--------------------------------|---|--------------------------------|------------------------------|
| Citizen of This State | PTF <input type="checkbox"/> 1 | DEF <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | PTF <input type="checkbox"/> 4 | DEF <input type="checkbox"/> |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury CIVIL RIGHTS <input checked="" type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing / Accommodations <input type="checkbox"/> 445 Amer. W/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395 ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reappointment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banks <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influence <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory / Executive <input type="checkbox"/> 891 Agricultural Act <input type="checkbox"/> 892 Economic Stabilization <input type="checkbox"/> 893 Environmental National <input type="checkbox"/> 894 Energy Allocation <input type="checkbox"/> 895 Freedom of Information <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality State Statutes

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to Judge from Magistrate

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

42 U.S.C. 2000e; 42 U.S.C. 1981; 29 U.S.C. 621

Brief description of cause: Plaintiff seeks damages for Defendants discriminatory conduct and breach of contract.

VII. REQUESTED IN COMPLAINT:
☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

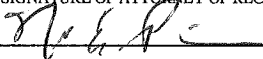
JUDGE

DOCKET NUMBER

DATE

5-22-08

SIGNATURE OF ATTORNEY OF RECORD



AO FORM 85 RECEIPT (REV. 9/04)

United States District Court for the District of Delaware

Civil Action No. _____



RD scanned

ACKNOWLEDGMENT
OF RECEIPT FOR AO FORM 85

NOTICE OF AVAILABILITY OF A
UNITED STATES MAGISTRATE JUDGE
TO EXERCISE JURISDICTION

I HEREBY ACKNOWLEDGE RECEIPT OF 1 COPIES OF AO FORM 85.

5/23/08

(Date forms issued)

A handwritten signature in cursive script, appearing to read "Noel E. Primas".

(Signature of Party or their Representative)

NOEL E. PRIMAS

(Printed name of Party or their Representative)

Note: Completed receipt will be filed in the Civil Action